

103D CONGRESS  
1ST SESSION

# H. R. 581

To authorize payments to units of general local government for fiscal years  
1993 and 1994.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 1993

Mr. CONYERS (for himself, Mrs. COLLINS of Illinois, Mr. WAXMAN, Mr. LANTOS, Mr. OWENS, Mr. TOWNS, Ms. THURMAN, Mr. RUSH, Ms. MALONEY, Mr. PAYNE of New Jersey, Mr. ABERCROMBIE, Mr. BLACKWELL, Mrs. COLLINS of Michigan, Mr. DELLUMS, Mr. DE LUGO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FRANK of Massachusetts, Mr. FORD of Tennessee, Mr. JEFFERSON, Mr. LIPINSKI, Mr. MARTINEZ, Mr. MAZZOLI, Mr. MFUME, Mr. THORNTON, Mr. TUCKER, Ms. WATERS, Mr. WHEAT, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Government Operations

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## A BILL

To authorize payments to units of general local government  
for fiscal years 1993 and 1994.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Local Partnership Act  
5       of 1993”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

1           (1) the total number of individuals in the Unit-  
2       ed States who have full time jobs has declined by  
3       900,000 since June 1990, falling from 98,400,000  
4       in June 1990 to 97,500,000 in December 1992;

5           (2) effective local governments and the services  
6       they provide contribute to national economic growth;

7           (3) because of the recession, many local govern-  
8       ments are curtailing vital public services and raising  
9       local taxes;

10          (4) local governments would spend quickly and  
11       productively any additional Federal funds they re-  
12       ceive under this Act;

13          (5) local governments, including counties, cities,  
14       towns, Indian tribes, and Alaskan Native villages,  
15       provide many essential public services more effec-  
16       tively than the Federal Government;

17          (6) the amount of money provided by the Fed-  
18       eral Government directly to county, municipal, and  
19       township local governments declined from  
20       \$16,600,000,000 in 1981 to \$10,500,000,000 in  
21       1990;

22          (7) many new Federal laws, especially in the  
23       environmental area, require substantial expenditures  
24       by local governments to meet national standards

1 without providing any Federal funds to offset these  
2 expenditures;

3 (8) over the past decade the population of the  
4 United States has become increasingly concentrated  
5 in wealthier or poorer counties, with fewer people liv-  
6 ing in middle-income counties in 1987 than in 1977;

7 (9) the disparities in per capita income between  
8 cities and their suburbs accelerated in the 1980's;

9 (10) in the 1980's poverty became increasingly  
10 concentrated in the Nation's cities;

11 (11) many cities and rural areas face common  
12 problems: an exodus of jobs and people, an eroding  
13 tax base, and declining social services;

14 (12) there is a growing discrepancy in the abil-  
15 ity of the Nation's local governments to provide nec-  
16 essary public services for their residents;

17 (13) this discrepancy has serious adverse con-  
18 sequences for the entire Nation;

19 (14) rising labor unemployment both increases  
20 the need for local governments to provide services  
21 and reduces their tax receipts;

22 (15) there are differences among the States in  
23 their rate of labor unemployment;

24 (16) in 1989-90 county, municipal, and town  
25 governments raised \$128,000,000,000 in taxes, of

1       which about 63 percent, or \$81,000,000,000, came  
2       from property taxes;

3           (17) the Federal income tax raises revenue  
4       more equitably and efficiently than the local prop-  
5       erty tax;

6           (18) in August 1992 the Congressional Budget  
7       Office estimated that total Federal individual and  
8       corporate income tax receipts will increase from  
9       \$574,000,000,000 in fiscal year 1992 to  
10      \$666,000,000,000 in fiscal year 1994; and

11          (19) returning some of this extra Federal in-  
12      come tax revenue to local governments in a manner  
13      that is focused on the Nation's most impoverished  
14      local governments is in the national interest.

15   **SEC. 3. ESTABLISHMENT OF PAYMENT PROGRAM.**

16      (a) ESTABLISHMENT OF PROGRAM.—Title 31, Unit-  
17   ed States Code, is amended by inserting after chapter 65  
18   the following:

19           **“CHAPTER 67—FEDERAL PAYMENTS**

“Sec.

“6701. Payments to local governments.

“6702. Local Government Fiscal Assistance Fund.

“6703. Qualification for payment.

“6704. State area allocations; allocations and payments to territorial govern-  
          ments.

“6705. Local government allocations.

“6706. Income gap multiplier.

“6707. State variation of local government allocations.

“6708. Adjustments of local government allocations.

“6709. Information used in allocation formulas.

“6710. Public participation.

“6711. Prohibited discrimination.

- “6712. Discrimination proceedings.
- “6713. Suspension and termination of payments in discrimination proceedings.
- “6714. Compliance agreements.
- “6715. Enforcement by the Attorney General of prohibitions on discrimination.
- “6716. Civil action by a person adversely affected.
- “6717. Judicial review.
- “6718. Audits, investigations, and reviews.
- “6719. Reports.
- “6720. Definitions and application.

1 **“§ 6701. Payments to local governments**

2 “(a) PAYMENT AND USE.—

3 “(1) PAYMENT.—The Secretary shall pay to  
 4 each unit of general local government which qualifies  
 5 for a payment under this chapter an amount equal  
 6 to the sum of any amounts allocated to the govern-  
 7 ment under this chapter for each payment period.  
 8 The Secretary shall pay such amount out of the  
 9 Local Government Fiscal Assistance Fund under  
 10 section 6702.

11 “(2) USE.—Amounts paid to a unit of general  
 12 local government under this section shall be used by  
 13 that unit for—

14 “(A) rehiring workers, restoring services,  
 15 or expanding programs which, because of the  
 16 most recent recession, have been laid-off, elimi-  
 17 nated, or overburdened, respectively; and

18 “(B) carrying out one or more programs of  
 19 the unit related to—

20 “(i) education;

21 “(ii) public safety;

1 “(iii) health;

2 “(iv) social services such as emergency  
3 food or shelter;

4 “(v) activities that are mandated by  
5 Federal law, including such activities  
6 under the Federal Water Pollution Control  
7 Act or the Americans with Disabilities Act  
8 of 1990; or

9 “(vi) any public works project for  
10 which on-site labor can begin within 90  
11 days after the date of the approval of the  
12 project by the unit.

13 “(b) TIMING OF PAYMENTS.—The Secretary shall  
14 pay each amount allocated under this chapter to a unit  
15 of general local government for a payment period by the  
16 later of 60 days after the date the amount is available  
17 or the first day of the payment period.

18 “(c) ADJUSTMENTS.—(1) Subject to paragraph (2),  
19 the Secretary shall adjust a payment under this chapter  
20 to a unit of general local government to the extent that  
21 a prior payment to the government was more or less than  
22 the amount required to be paid.

23 “(2) The Secretary may increase or decrease under  
24 this subsection a payment to a unit of local government  
25 only if the Secretary determines the need for the increase

1 or decrease, or the unit requests the increase or decrease,  
2 within one year after the end of the payment period for  
3 which the payment was made.

4 “(d) RESERVATION FOR ADJUSTMENTS.—The Sec-  
5 retary may reserve a percentage of not more than 0.5 per-  
6 cent of the amount under this section for a payment pe-  
7 riod for all units of general local government in a State  
8 if the Secretary considers the reserve is necessary to en-  
9 sure the availability of sufficient amounts to pay adjust-  
10 ments after the final allocation of amounts among the  
11 units of general local government in the State.

12 “(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

13 “(1) REPAYMENT REQUIRED.—A unit of gen-  
14 eral local government shall repay to the Secretary,  
15 by not later than November 15, 1994, any amount  
16 that is—

17 “(A) paid to the unit from amounts appro-  
18 priated under the authority of this section; and

19 “(B) not expended by the unit by October  
20 31, 1994.

21 “(2) DEPOSIT OF AMOUNTS REPAID.—Amounts  
22 received by the Secretary as repayments under this  
23 subsection shall be deposited in the general fund of  
24 the Treasury as miscellaneous receipts.

1       “(f) EXPENDITURE WITH DISADVANTAGED BUSI-  
2       NESS ENTERPRISES.—

3               “(1) GENERAL RULE.—Of amounts paid to a  
4       unit of general local government under this chapter  
5       for a payment period, not less than 10 percent of  
6       the total combined amounts obligated by the unit for  
7       contracts and subcontracts shall be expended with—

8               “(A) small business concerns controlled by  
9       socially and economically disadvantaged individ-  
10      uals and women; and

11              “(B) historically Black colleges and univer-  
12      sities and colleges and universities having a stu-  
13      dent body in which more than 20 percent of the  
14      students are Hispanic Americans or Native  
15      Americans.

16              “(2) EXCEPTION.—Paragraph (1) shall not  
17      apply to amounts paid to a unit of general local gov-  
18      ernment to the extent the unit determines that the  
19      paragraph does not apply through a process that  
20      provides for public participation.

21              “(3) DEFINITIONS.—For purposes of this sub-  
22      section—

23              “(A) the term ‘small business concern’ has  
24      the meaning such term has under section 3 of  
25      the Small Business Act; and



1           “(B) the term ‘socially and economically  
2           disadvantaged individuals’ has the meaning  
3           such term has under section 8(d) of the Small  
4           Business Act and relevant subcontracting regu-  
5           lations promulgated pursuant to that section.

6   **“§ 6702. Local Government Fiscal Assistance Fund**

7           “(a) ADMINISTRATION OF FUND.—The Department  
8   of Housing and Urban Development has a Local Govern-  
9   ment Fiscal Assistance Fund, which consists of amounts  
10  appropriated to the Fund.

11          “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
12  are authorized to be appropriated to the Fund  
13  \$3,000,000,000 for fiscal years 1993 and 1994.

14   **“§ 6703. Qualification for payment**

15          “(a) IN GENERAL.—Under regulations issued by the  
16  Secretary, a unit of general local government qualifies for  
17  a payment under this chapter for a payment period only  
18  after establishing to the satisfaction of the Secretary  
19  that—

20               “(1) the government will establish a trust fund  
21           in which the government will deposit all payments  
22           received under this chapter;

23               “(2) the government will use amounts in the  
24           trust fund (including interest) during a reasonable

1 period specified in the regulations issued by the Sec-  
2 retary;

3 “(3) the government will expend the payments  
4 so received, in accordance with the laws and proce-  
5 dures that are applicable to the expenditure of reve-  
6 nues of the government;

7 “(4) if at least 25 percent of the pay of individ-  
8 uals employed by the government in a public em-  
9 ployee occupation is paid out of the trust fund, indi-  
10 viduals in the occupation any part of whose pay is  
11 paid out of the trust fund will receive pay at least  
12 equal to the prevailing rate of pay for individuals  
13 employed in similar public employee occupations by  
14 the government;

15 “(5) if at least 25 percent of the costs of a con-  
16 struction project are paid out of the trust fund, la-  
17 borers and mechanics employed by contractors or  
18 subcontractors on the project will receive pay at  
19 least equal to the prevailing rate of pay for similar  
20 construction in the locality as determined by the  
21 Secretary of Labor under the Act of March 3, 1931  
22 (46 Stat. 1494 et seq.; popularly known as the  
23 Davis-Bacon Act), and the Secretary of Labor shall  
24 act on labor standards under this paragraph in a  
25 manner that is in accordance with Reorganization

1 Plan No. 14 of 1950 (64 Stat. 1267) and section 2  
2 of the Act of June 13, 1934 (48 Stat. 948);

3 “(6) the government will use accounting, audit,  
4 and fiscal procedures that conform to guidelines  
5 which shall be prescribed by the Secretary after con-  
6 sultation with the Comptroller General of the United  
7 States;

8 “(7) after reasonable notice to the government,  
9 the government will make available to the Secretary  
10 and the Comptroller General of the United States,  
11 with the right to inspect, records the Secretary rea-  
12 sonably requires to review compliance with this  
13 chapter or the Comptroller General of the United  
14 States reasonably requires to review compliance and  
15 operations under section 6718(b); and

16 “(8) the government will make reports the Sec-  
17 retary reasonably requires, in addition to the annual  
18 reports required under section 6719(b).

19 “(b) REVIEW BY GOVERNORS.—A unit of general  
20 local government shall give the chief executive officer of  
21 the State in which the government is located an oppor-  
22 tunity for review and comment before establishing compli-  
23 ance with subsection (a).

24 “(c) SANCTIONS FOR NONCOMPLIANCE.—(1) If the  
25 Secretary decides that a unit of general local government

1 has not complied substantially with subsection (a) or regu-  
2 lations prescribed under subsection (a), the Secretary shall  
3 notify the government. The notice shall state that if the  
4 government does not take corrective action by the 60th  
5 day after the date the government receives the notice, the  
6 Secretary will withhold additional payments to the govern-  
7 ment for the current payment period and later payment  
8 periods until the Secretary is satisfied that the govern-  
9 ment—

10           “(A) has taken the appropriate corrective ac-  
11           tion; and

12           “(B) will comply with subsection (a) and regu-  
13           lations prescribed under subsection (a).

14           “(2) Before giving notice under paragraph (1), the  
15 Secretary shall give the chief executive officer of the unit  
16 of general local government reasonable notice and an op-  
17 portunity for a proceeding.

18           “(3) The Secretary may make a payment to a unit  
19 of general local government notified under paragraph (1)  
20 only if the Secretary is satisfied that the government—

21           “(A) has taken the appropriate corrective ac-  
22           tion; and

23           “(B) will comply with subsection (a) and regu-  
24           lations prescribed under subsection (a).

1 **“§ 6704. State area allocations; allocations and pay-**  
2 **ments to territorial governments**

3 “(a) FORMULA ALLOCATION BY STATE.—For each  
4 payment period, the Secretary shall allocate to each State  
5 out of the amount appropriated for the period under the  
6 authority of section 6702(b) (minus the amounts allocated  
7 to territorial governments under subsection (e) for the  
8 payment period) an amount bearing the same ratio to the  
9 amount appropriated (minus such amounts allocated  
10 under subsection (e)) as the amount allocated to the State  
11 under this section bears to the total amount allocated to  
12 all States under this section. The Secretary shall—

13 “(1) determine the amount allocated to the  
14 State under subsection (b) or (c) of this section and  
15 allocate the larger amount to the State; and

16 “(2) allocate the amount allocated to the State  
17 to units of general local government in the State  
18 under sections 6705 and 6706.

19 “(b) GENERAL FORMULA.—(1) The amount allocated  
20 to a State under this subsection for a payment period is  
21 the amount bearing the same ratio to \$5,300,000,000  
22 as—

23 “(A) the population of the State, multiplied by  
24 the general tax effort factor of the State (deter-  
25 mined under paragraph (2)), multiplied by the rel-  
26 ative income factor of the State (determined under

1 paragraph (3)), multiplied by the relative rate of the  
2 labor force unemployed in the State (determined  
3 under paragraph (4)); bears to

4 “(B) the sum of the products determined under  
5 subclause (A) of this paragraph for all States.

6 “(2) The general tax effort factor of a State for a  
7 payment period is—

8 “(A) the net amount of State and local taxes of  
9 the State collected during the years used by the Sec-  
10 retary of Commerce in the most recent Bureau of  
11 the Census general determination of State and local  
12 taxes made before the beginning of the payment pe-  
13 riod; divided by

14 “(B) the total income of individuals, as deter-  
15 mined by the Secretary of Commerce for national in-  
16 come accounts purposes, attributed to the State for  
17 the same years.

18 “(3) The relative income factor of a State is a frac-  
19 tion in which—

20 “(A) the numerator is the per capita income of  
21 the United States; and

22 “(B) the denominator is the per capita income  
23 of the State.

24 “(4) The relative rate of the labor force unemployed  
25 in a State is a fraction in which—

1           “(A) the numerator is the percentage of the  
2       labor force of the State that is unemployed (as de-  
3       termined by the Secretary of Labor for general sta-  
4       tistical purposes); and

5           “(B) the denominator is the percentage of the  
6       labor force of the United States that is unemployed  
7       (as determined by the Secretary of Labor for general  
8       statistical purposes).

9           “(c) ALTERNATIVE FORMULA.—The amount allo-  
10      cated to a State under this subsection for a payment pe-  
11      riod is the total amount the State would receive if—

12           “(1) \$1,166,666,667 were allocated among the  
13      States on the basis of population by allocating to  
14      each State an amount bearing the same ratio to the  
15      total amount to be allocated under this paragraph as  
16      the population of the State bears to the population  
17      of all States;

18           “(2) \$1,166,666,667 were allocated among the  
19      States on the basis of population inversely weighted  
20      for per capita income, by allocating to each State an  
21      amount bearing the same ratio to the total amount  
22      to be allocated under this paragraph as—

23           “(A) the population of the State, multi-  
24      plied by a fraction in which—

1                   “(i) the numerator is the per capita  
2                   income of all States; and

3                   “(ii) the denominator is the per capita  
4                   income of the State; bears to

5                   “(B) the sum of the products determined  
6                   under subparagraph (A) for all States;

7                   “(3) \$600,000,000 were allocated among the  
8                   States on the basis of income tax collections by allo-  
9                   cating to each State an amount bearing the same  
10                  ratio to the total amount to be allocated under this  
11                  paragraph as the income tax amount of the State  
12                  (determined under subsection (d)(1)) bears to the  
13                  sum of the income tax amounts of all States;

14                  “(4) \$600,000,000 were allocated among the  
15                  States on the basis of general tax effort by allocat-  
16                  ing to each State an amount bearing the same ratio  
17                  to the total amount to be allocated under this para-  
18                  graph as the general tax effort amount of the State  
19                  (determined under subsection (d)(2)) bears to the  
20                  sum of the general tax effort amounts of all States;

21                  “(5) \$600,000,000 were allocated among the  
22                  States on the basis of unemployment by allocating to  
23                  each State an amount bearing the same ratio to the  
24                  total amount to be allocated under this paragraph  
25                  as—



1           “(A) the labor force of the State, multi-  
2           plied by a fraction in which—

3                   “(i) the numerator is the percentage  
4                   of the labor force of the State that is un-  
5                   employed (as determined by the Secretary  
6                   of Labor for general statistical purposes);  
7                   and

8                   “(ii) the denominator is the percent-  
9                   age of the labor force of the United States  
10                  that is unemployed (as determined by the  
11                  Secretary of Labor for general statistical  
12                  purposes);

13          bears to

14                  “(B) the sum of the products determined  
15                  under subparagraph (A) for all States; and

16                  “(6) \$1,166,666,667 were allocated among the  
17          States on the basis of urbanized population by allo-  
18          cating to each State an amount bearing the same  
19          ratio to the total amount to be allocated under this  
20          paragraph as the urbanized population of the State  
21          bears to the urbanized population of all States. In  
22          this paragraph, the term ‘urbanized population’  
23          means the population of an area consisting of a  
24          central city or cities of at least 50,000 inhabitants  
25          and the surrounding closely settled area for the city

1 or cities considered as an urbanized area by the Sec-  
2 retary of Commerce for general statistical purposes.

3 “(d) INCOME TAX AMOUNT AND TAX EFFORT  
4 AMOUNT.—(1) The income tax amount of a State for a  
5 payment period is 15 percent of the net amount collected  
6 during the calendar year ending before the beginning of  
7 the payment period from the tax imposed on the income  
8 of individuals by the State and described as a State in-  
9 come tax under section 164(a)(3) of the Internal Revenue  
10 Code of 1986 (26 U.S.C. 164(a)(3)). The income tax  
11 amount for a payment period shall be at least one percent  
12 but not more than 6 percent of the United States Govern-  
13 ment individual income tax liability attributed to the State  
14 for the taxable year ending during the last calendar year  
15 ending before the beginning of the payment period. The  
16 Secretary shall determine the Government income tax li-  
17 ability attributed to the State on the same basis as the  
18 Secretary of the Treasury determines that liability for gen-  
19 eral statistical purposes.

20 “(2) The general tax effort amount of a State for  
21 a payment period is the amount determined by multiply-  
22 ing—

23 “(A) the net amount of State and local taxes of  
24 the State collected during the years used by the Sec-  
25 retary of Commerce in the most recent Bureau of

1 the Census general determination of State and local  
2 taxes made before the beginning of the payment pe-  
3 riod; by

4 “(B) the general tax effort factor of the State  
5 determined under subsection (b)(2).

6 “(e) ALLOCATION FOR PUERTO RICO, GUAM, AMER-  
7 ICAN SAMOA, AND THE VIRGIN ISLANDS.—(1)(A) For  
8 each payment period for which funds are available for allo-  
9 cation under this chapter, the Secretary shall allocate to  
10 each territorial government an amount equal to the prod-  
11 uct of 1 percent of the amount of funds available for allo-  
12 cation multiplied by the applicable territorial percentage.

13 “(B) For the purposes of this paragraph, the applica-  
14 ble territorial percentage of a territory is equal to the  
15 quotient resulting from the division of the territorial popu-  
16 lation of such territory by the sum of the territorial popu-  
17 lation for all territories.

18 “(2) The governments of the territories shall make  
19 payments to local governments within their jurisdiction  
20 from sums received under this subsection as they consider  
21 appropriate.

22 “(3) For purposes of this subsection—

23 “(A) the term ‘territorial government’  
24 means the government of a territory;

1           “(B) the term ‘territory’ means Puerto  
2           Rico, Guam, American Samoa, and the Virgin  
3           Islands; and

4           “(C) the term ‘territorial population’  
5           means the most recent population for each ter-  
6           ritory as determined by the Bureau of Census.

7   **“§ 6705. Local government allocations**

8           “(a) INDIAN TRIBES AND ALASKAN NATIVES VIL-  
9   LAGES.—If there is in a State an Indian tribe or Alaskan  
10 native village having a recognized governing body carrying  
11 out substantial governmental duties and powers, the Sec-  
12 retary shall allocate to the tribe or village, out of the  
13 amount allocated to the State under section 6704, an  
14 amount bearing the same ratio to the amount allocated  
15 to the State as the population of the tribe or village bears  
16 to the population of the State. The Secretary shall allocate  
17 amounts under this subsection to Indian tribes and Alas-  
18 kan native villages in a State before allocating amounts  
19 to units of general local government in the State under  
20 subsection (b).

21           “(b) OTHER LOCAL GOVERNMENT ALLOCATIONS.—  
22 (1) The Secretary shall allocate among the units of general  
23 local government in a State (other than units receiving  
24 allocations under subsection (a)) the amount allocated to  
25 the State under section 6704 (as that amount is reduced

1 by allocations under subsection (a)). Of the amount to be  
2 allocated, the Secretary shall allocate a portion equal to  
3  $\frac{1}{2}$  of such amount in accordance with section 6706(1),  
4 and shall allocate a portion equal to  $\frac{1}{2}$  of such amount  
5 in accordance with section 6706(2). A unit of general local  
6 government shall receive an amount equal to the sum of  
7 amounts allocated to the unit from each portion.

8 “(2) From each portion to be allocated to units of  
9 local government in a State under paragraph (1), the Sec-  
10 retary shall allocate to a unit an amount bearing the same  
11 ratio to the funds to be allocated as—

12 “(A) the population of the unit, multiplied by  
13 the general tax effort factor of the unit (determined  
14 under paragraph (3)), multiplied by the income gap  
15 of the unit (determined under paragraph (4)), bears  
16 to

17 “(B) the sum of the products determined under  
18 subparagraph (A) for all units in the State for which  
19 the income gap for that portion under paragraph (4)  
20 is greater than zero.

21 “(3)(A) Except as provided in subparagraph (C), the  
22 general tax effort factor of a unit of general local govern-  
23 ment for a payment period is—

24 “(i) the adjusted taxes of the unit; divided by

25 “(ii) the total income attributed to the unit.

1       “(B) If the amount determined under subparagraphs  
2 (A)(i) and (ii) for a unit of general local government is  
3 less than zero, the general tax effort factor of the unit  
4 is deemed to be zero.

5       “(C)(i) Except as otherwise provided in this subpara-  
6 graph, the adjusted taxes of a unit of general local govern-  
7 ment are the taxes imposed by the unit for public purposes  
8 (except employee and employer assessments and contribu-  
9 tions to finance retirement and social insurance systems  
10 and other special assessments for capital outlay), as deter-  
11 mined by the Secretary of Commerce for general statistical  
12 purposes and adjusted (under regulations of the Sec-  
13 retary) to exclude amounts properly allocated to education  
14 expenses.

15       “(ii) The Secretary shall, for purposes of clause (i),  
16 include that part of sales taxes transferred to a unit of  
17 general local government that are imposed by a county  
18 government in the geographic area of which is located the  
19 unit of general local government as taxes imposed by the  
20 unit for public purposes if—

21               “(I) the county government transfers any part  
22       of the revenue from the taxes to the unit of general  
23       local government without specifying the purpose for  
24       which the unit of general local government may ex-  
25       pend the revenue; and

1           “(II) the chief executive officer of the State no-  
2           tifies the Secretary that the taxes satisfy the re-  
3           quirements of this clause.

4           “(iii) The adjusted taxes of a unit of general local  
5           government shall not exceed the maximum allowable ad-  
6           justed taxes for that unit.

7           “(iv) The maximum allowable adjusted taxes for a  
8           unit of general local government is the allowable adjusted  
9           taxes of the unit minus the excess adjusted taxes of the  
10          unit.

11          “(v) The allowable adjusted taxes of a unit of general  
12          government is the greater of—

13               “(I) the amount equal to 2.5, multiplied by the  
14               per capita adjusted taxes of all units of general local  
15               government of the same type in the State, multiplied  
16               by the population of the unit; or

17               “(II) the amount equal to the population of the  
18               unit, multiplied by the sum of the adjusted taxes of  
19               all units of municipal local government in the State,  
20               divided by the sum of the populations of all the units  
21               of municipal local government in the State.

22          “(vi) The excess adjusted taxes of a unit of general  
23          local government is the amount equal to—

24               “(I) the adjusted taxes of the unit, minus

1           “(II) 1.5 multiplied by the allowable adjusted  
2       taxes of the unit;  
3       except that if this amount is less than zero then the excess  
4       adjusted taxes of the unit is deemed to be zero.

5       “(vii) For purposes of this subparagraph—

6           “(I) the term ‘per capita adjusted taxes of all  
7       units of general local government of the same type’  
8       means the sum of the adjusted taxes of all units of  
9       general local government of the same type divided by  
10      the sum of the populations of all units of general  
11      local government of the same type; and

12          “(II) the term ‘units of general local govern-  
13      ment of the same type’ means all townships if the  
14      unit of general local government is a township, all  
15      municipalities if the unit of general local government  
16      is a municipality, all counties if the unit of general  
17      local government is a county, or all unified city/  
18      county governments if the unit of general local gov-  
19      ernment is a unified city/county government.

20      “(4)(A) Except as provided in subparagraph (B), the  
21      income gap of a unit of general local government is—

22          “(i) the number which applies under section  
23      6706, multiplied by the per capita income of the  
24      State in which the unit is located; minus



1           “(ii) the per capita income of the geographic  
2       area of the unit.

3       “(B) If the amount determined under subparagraph  
4 (A) for a unit of general local government is less than  
5 zero, then the relative income factor of the unit is deemed  
6 to be zero.

7       “(c) SMALL GOVERNMENT ALLOCATIONS.—If the  
8 Secretary decides that information available for a unit of  
9 general local government with a population below a num-  
10 ber (of not more than 500) prescribed by the Secretary  
11 is inadequate, the Secretary may allocate to the unit, in  
12 lieu of any allocation under subsection (b) for a payment  
13 period, an amount bearing the same ratio to the total  
14 amount to be allocated under subsection (b) for the period  
15 for all units of general local government in the State as  
16 the population of the unit bears to the population of all  
17 units in the State.

18 **“§ 6706. Income gap multiplier**

19       “For purposes of determining the income gap of a  
20 unit of general local government under section  
21 6705(b)(4)(A), the number which applies is—

22           “(1) 1.6, with respect to  $\frac{1}{2}$  of any amount allo-  
23 cated under section 6704 to the State in which the  
24 unit is located; and

1           “(2) 1.2, with respect to the remainder of such  
2       amount.

3       **“§ 6707. State variation of local government alloca-**  
4               **tions**

5       “(a) STATE FORMULA.—A State government may  
6       provide by law for the allocation of amounts among units  
7       of general local government in the State on the basis of  
8       population multiplied by the general tax effort factors or  
9       income gaps of the units of general local government (de-  
10      termined under sections 6705(a) and (b) or a combination  
11      of those factors. A State government providing for a vari-  
12      ation of an allocation formula provided under section  
13      6705(a) and (b) shall notify the Secretary of the variation  
14      by the 30th day before the beginning of the first payment  
15      period in which the variation applies. A variation shall—

16           “(1) provide for allocating the total amount al-  
17      located under section 6705(a) and (b);

18           “(2) apply uniformly in the State; and

19           “(3) apply only to payment periods beginning  
20      before October 1, 1995.

21      “(b) CERTIFICATION.—A variation by a State govern-  
22      ment under this section may apply only if the Secretary  
23      certifies that the variation complies with this section. The  
24      Secretary may certify a variation only if the Secretary is

1 notified of the variation at least 30 days before the first  
2 payment period in which the variation applies.

3 **“§ 6708. Adjustments of local government allocations**

4 “(a) MAXIMUM AMOUNT.—The amount allocated to  
5 a unit of general local government for a payment period  
6 may not exceed the adjusted taxes imposed by the unit  
7 of general local government as determined under section  
8 6705(b)(3). Amounts in excess of adjusted taxes shall be  
9 paid to the Governor of the State in which the unit of  
10 local government is located.

11 “(b) DE MINIMIS ALLOCATIONS.—If the amount al-  
12 located to a unit of general local government (except an  
13 Indian tribe or an Alaskan native village) for a payment  
14 period would be less than \$5,000 but for this subsection  
15 or is waived by the governing authority of the unit of gen-  
16 eral local government, the Secretary shall pay the amount  
17 to the Governor of the State in which the unit is located.

18 “(c) USE OF PAYMENTS TO STATES.—The Governor  
19 of a State shall use all amounts paid to the Governor  
20 under subsections (a) and (b) for public works projects  
21 in areas of the State where are located the units of general  
22 local government with respect to which amounts are paid  
23 under subsection (b).

1 **“§ 6709. Information used in allocation formulas**

2       “(a) USE OF MOST RECENT INFORMATION.—Except  
3 as provided in this section, the Secretary shall use the  
4 most recent available information provided by the Sec-  
5 retary of Commerce and the Secretary of Labor before the  
6 beginning of the payment period to determine an alloca-  
7 tion under this chapter. If the Secretary decides that the  
8 information is not current or complete enough to provide  
9 for a fair allocation, the Secretary may use additional in-  
10 formation (including information based on estimates) as  
11 provided under regulations of the Secretary.

12       “(b) POPULATION DATA.—(1) The Secretary shall  
13 determine population on the same basis that the Secretary  
14 of Commerce determines resident population for general  
15 statistical purposes.

16       “(2) The Secretary shall request the Secretary of  
17 Commerce to adjust the population information provided  
18 to the Secretary as soon as practicable to include a reason-  
19 able estimate of the number of resident individuals not  
20 counted in the 1990 census or revisions of the census. The  
21 Secretary shall use the estimates in determining alloca-  
22 tions for the payment period beginning after the Secretary  
23 receives the estimates. The Secretary shall adjust popu-  
24 lation information to reflect adjustments made under sec-  
25 tion 118 of the Act of October 1, 1980 (Public Law 96–  
26 369, 94 Stat. 1357).

1       “(c) ADDITIONAL DATA LIMITATIONS.—The Sec-  
2 retary may not—

3               “(1) in determining an allocation for a payment  
4 period, use information on tax collections for years  
5 more recent than the years used by the Secretary of  
6 Commerce in the most recent Bureau of the Census  
7 general determination of State and local taxes made  
8 before the beginning of that period; or

9               “(2) consider a change in information used to  
10 determine an allocation for a period of 60 months if  
11 the change—

12               “(A) results from a major disaster declared  
13 by the President under section 401 of The Rob-  
14 ert T. Stafford Disaster Relief and Emergency  
15 Assistance Act; and

16               “(B) reduces the amount of an allocation.

17 **“§ 6710. Public participation**

18       “(a) HEARINGS.—(1) A unit of general local govern-  
19 ment expending payments under this chapter shall hold  
20 at least one public hearing on the proposed use of the pay-  
21 ment in relation to its entire budget. At the hearing, per-  
22 sons shall be given an opportunity to provide written and  
23 oral views to the governmental authority responsible for  
24 enacting the budget and to ask questions about the entire  
25 budget and the relation of the payment to the entire budg-

1 et. The government shall hold the hearing at a time and  
2 a place that allows and encourages public attendance and  
3 participation.

4 “(2) A unit of general local government holding a  
5 hearing required under this subsection or by the budget  
6 process of the government shall try to provide senior citi-  
7 zens and senior citizen organizations with an opportunity  
8 to present views at the hearing before the government  
9 makes a final decision on the use of the payment.

10 “(b) DISCLOSURE OF INFORMATION.—(1) By the  
11 10th day before a hearing required under subsection  
12 (a)(1) is held, a unit of general local government shall—

13 “(A) make available for inspection by the public  
14 at the principal office of the government a statement  
15 of the proposed use of the payment and a summary  
16 of the proposed budget of the government; and

17 “(B) publish in at least one newspaper of gen-  
18 eral circulation the proposed use of the payment  
19 with the summary of the proposed budget and a no-  
20 tice of the time and place of the hearing.

21 “(2) By the 30th day after adoption of the budget  
22 under State or local law, the government shall—

23 “(A) make available for inspection by the public  
24 at the principal office of the government a summary

1 of the adopted budget, including the proposed use of  
2 the payment; and

3 “(B) publish in at least one newspaper of gen-  
4 eral circulation a notice that the information re-  
5 ferred to in subparagraph (A) is available for inspec-  
6 tion.

7 “(c) WAIVERS OF REQUIREMENTS.—Under regula-  
8 tions of the Secretary, a requirement—

9 “(1) under subsection (a)(1) may be waived if  
10 the budget process required under the applicable  
11 State or local law or charter provisions—

12 “(A) ensures the opportunity for public at-  
13 tendance and participation contemplated by  
14 subsection (a); and

15 “(B) includes a hearing on the proposed  
16 use of a payment received under this chapter in  
17 relation to the entire budget of the government;  
18 and

19 “(2) under subsection (b)(1)(B) and (2)(B)  
20 may be waived if the cost of publishing the informa-  
21 tion would be unreasonably burdensome in relation  
22 to the amount allocated to the government from  
23 amounts available for payment under this chapter,  
24 or if publication is otherwise impracticable.

1       “(d) EXCEPTION TO 10-DAY LIMITATION.—If the  
 2 Secretary is satisfied that a unit of general local govern-  
 3 ment will provide adequate notice of the proposed use of  
 4 a payment received under this chapter, the 10-day period  
 5 under subsection (b)(1) may be changed to the extent nec-  
 6 essary to comply with applicable State or local law.

7       “(e) APPLICATION TO GOVERNMENTS WITHOUT  
 8 BUDGETS.—The Secretary shall prescribe regulations for  
 9 applying this section to units of general local government  
 10 that do not adopt budgets.

11   **“§ 6711. Prohibited discrimination**

12       “(a) GENERAL PROHIBITION.—No person in the  
 13 United States shall be excluded from participating in, be  
 14 denied the benefits of, or be subject to discrimination  
 15 under, a program or activity of a unit of general local gov-  
 16 ernment because of race, color, national origin, or sex if  
 17 the government receives a payment under this chapter.

18       “(b) ADDITIONAL PROHIBITIONS.—The following  
 19 prohibitions and exemptions also apply to a program or  
 20 activity of a unit of general local government if the govern-  
 21 ment receives a payment under this chapter:

22               “(1) A prohibition against discrimination be-  
 23 cause of age under the Age Discrimination Act of  
 24 1975.



1           “(2) A prohibition against discrimination  
2           against an otherwise qualified handicapped individ-  
3           ual under section 504 of the Rehabilitation Act of  
4           1973.

5           “(3) A prohibition against discrimination be-  
6           cause of religion, or an exemption from that prohibi-  
7           tion, under the Civil Rights Act of 1964 or title VIII  
8           of the Act of April 11, 1968 (popularly known as the  
9           Civil Rights Act of 1968).

10          “(c) LIMITATIONS ON APPLICABILITY OF PROHIBI-  
11          TIONS.—Subsections (a) and (b) do not apply if the gov-  
12          ernment shows, by clear and convincing evidence, that a  
13          payment received under this chapter is not used to pay  
14          for any part of the program or activity with respect to  
15          which the allegation of discrimination is made.

16          “(d) INVESTIGATION AGREEMENTS.—The Secretary  
17          shall try to make agreements with heads of agencies of  
18          the United States Government and State agencies to in-  
19          vestigate noncompliance with this section. An agreement  
20          shall—

21                 “(1) describe the cooperative efforts to be taken  
22                 (including sharing civil rights enforcement personnel  
23                 and resources) to obtain compliance with this sec-  
24                 tion; and

1           “(2) provide for notifying immediately the Sec-  
2       retary of actions brought by the United States Gov-  
3       ernment or State agencies against a unit of general  
4       local government alleging a violation of a civil rights  
5       law or a regulation prescribed under a civil rights  
6       law.

7   **“§ 6712. Discrimination proceedings**

8       “(a) NOTICE OF NONCOMPLIANCE.—By the 10th day  
9       after the Secretary makes a finding of discrimination or  
10      receives a holding of discrimination about a unit of general  
11      local government, the Secretary shall submit a notice of  
12      noncompliance to the government. The notice shall state  
13      the basis of the finding or holding.

14      “(b) INFORMAL PRESENTATION OF EVIDENCE.—A  
15      unit of general local government may present evidence in-  
16      formally to the Secretary within 30 days after the govern-  
17      ment receives a notice of noncompliance from the Sec-  
18      retary. Except as provided in subsection (e), the govern-  
19      ment may present evidence on whether—

20           “(1) a person in the United States has been ex-  
21       cluded or denied benefits of, or discriminated against  
22       under, the program or activity of the government, in  
23       violation of section 6711(a);

1           “(2) the program or activity of the government  
2       violated a prohibition described in section 6711(b);  
3       and

4           “(3) any part of that program or activity has  
5       been paid for with a payment received under this  
6       chapter.

7       “(c) TEMPORARY SUSPENSION OF PAYMENTS.—By  
8       the end of the 30-day period under subsection (b), the Sec-  
9       retary shall decide whether the unit of general local gov-  
10      ernment has not complied with section 6711 (a) or (b),  
11      unless the government has entered into a compliance  
12      agreement under section 6714. If the Secretary decides  
13      that the government has not complied, the Secretary shall  
14      notify the government of the decision and shall suspend  
15      payments to the government under this chapter unless,  
16      within 10 days after the government receives notice of the  
17      decision, the government—

18           “(1) enters into a compliance agreement under  
19      section 6714; or

20           “(2) requests a proceeding under subsection  
21      (d)(1).

22       “(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—  
23      (1) A proceeding requested under subsection (c)(2) shall  
24      begin by the 30th day after the Secretary receives a re-  
25      quest for the proceeding. The proceeding shall be before

1 an administrative law judge appointed under section 3105  
2 of title 5. By the 30th day after the beginning of the pro-  
3 ceeding, the judge shall issue a preliminary decision based  
4 on the record at the time on whether the unit of general  
5 local government is likely to prevail in showing compliance  
6 with section 6711 (a) or (b).

7 “(2) If the administrative law judge decides at the  
8 end of a proceeding under paragraph (1) that the unit  
9 of general local government has—

10 “(A) not complied with section 6711 (a) or (b),  
11 the judge may order payments to the government  
12 under this chapter terminated; or

13 “(B) complied with section 6711 (a) or (b), a  
14 suspension under section 6713(a)(1)(A) shall be dis-  
15 continued promptly.

16 “(3) An administrative law judge may not issue a  
17 preliminary decision that the government is not likely to  
18 prevail if the judge has issued a decision described in para-  
19 graph (2)(A).

20 “(e) BASIS FOR REVIEW.—In a proceeding under  
21 subsections (b) through (d) on a program or activity of  
22 a unit of general local government about which a holding  
23 of discrimination has been made, the Secretary or admin-  
24 istrative law judge may consider only whether a payment  
25 under this chapter was used to pay for any part of the

1 program or activity. The holding of discrimination is con-  
2 clusive. If the holding is reversed by an appellate court,  
3 the Secretary or judge shall end the proceeding.

4 **“§ 6713. Suspension and termination of payments in**  
5 **discrimination proceedings**

6 “(a) IMPOSITION AND CONTINUATION OF SUSPEN-  
7 SIONS.—(1) The Secretary shall suspend payment under  
8 this chapter to a unit of general local government—

9 “(A) if an administrative law judge appointed  
10 under section 3105 of title 5 issues a preliminary de-  
11 cision in a proceeding under section 6712(d)(1) that  
12 the government is not likely to prevail in showing  
13 compliance with section 6711 (a) and (b);

14 “(B) if the administrative law judge decides at  
15 the end of the proceeding that the government has  
16 not complied with section 6711 (a) or (b), unless the  
17 government makes a compliance agreement under  
18 section 6714 by the 30th day after the decision; or

19 “(C) if required under section 6712(c).

20 “(2) A suspension already ordered under paragraph  
21 (1)(A) continues in effect if the administrative law judge  
22 makes a decision under paragraph (1)(B).

23 “(b) LIFTING OF SUSPENSIONS AND TERMI-  
24 NATIONS.—If a holding of discrimination is reversed by  
25 an appellate court, a suspension or termination of pay-

1 ments in a proceeding based on the holding shall be dis-  
2 continued.

3 “(c) RESUMPTION OF PAYMENTS UPON ATTAINING  
4 COMPLIANCE.—The Secretary may resume payment to a  
5 unit of general local government of payments suspended  
6 by the Secretary only—

7 “(1) as of the time of, and under the conditions  
8 stated in—

9 “(A) the approval by the Secretary of a  
10 compliance agreement under section  
11 6714(a)(1); or

12 “(B) a compliance agreement entered into  
13 by the Secretary under section 6714(a)(2);

14 “(2) if the government complies completely with  
15 an order of a United States court, a State court, or  
16 administrative law judge that covers all matters  
17 raised in a notice of noncompliance submitted by the  
18 Secretary under section 6712(a);

19 “(3) if a United States court, a State court, or  
20 an administrative law judge decides (including a  
21 judge in a proceeding under section 6712(d)(1)),  
22 that the government has complied with sections  
23 6711 (a) and (b); or

24 “(4) if a suspension is discontinued under sub-  
25 section (b).

1       “(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For  
 2 purposes of subsection (c)(2), compliance by a government  
 3 may consist of the payment of restitution to a person in-  
 4 jured because the government did not comply with section  
 5 6711 (a) or (b).

6       “(e) RESUMPTION OF PAYMENTS UPON REVERSAL  
 7 BY COURT.—The Secretary may resume payment to a unit  
 8 of general local government of payments terminated under  
 9 section 6712(d)(2)(A) only if the decision resulting in the  
 10 termination is reversed by an appellate court.

11   **“§ 6714. Compliance agreements**

12       “(a) TYPES OF COMPLIANCE AGREEMENTS.—A com-  
 13 pliance agreement is an agreement—

14               “(1) approved by the Secretary, between the  
 15 governmental authority responsible for prosecuting a  
 16 claim or complaint that is the basis of a holding of  
 17 discrimination and the chief executive officer of the  
 18 unit of general local government that has not com-  
 19 plied with section 6711 (a) or (b); or

20               “(2) between the Secretary and the chief execu-  
 21 tive officer.

22       “(b) CONTENTS OF AGREEMENTS.—A compliance  
 23 agreement—

24               “(1) shall state the conditions the unit of gen-  
 25 eral local government has agreed to comply with

1 that would satisfy the obligations of the government  
2 under sections 6711 (a) and (b);

3 “(2) shall cover each matter that has been  
4 found not to comply, or would not comply, with sec-  
5 tion 6711 (a) or (b); and

6 “(3) may be a series of agreements that dispose  
7 of those matters.

8 “(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—  
9 The Secretary shall submit a copy of a compliance agree-  
10 ment to each person who filed a complaint referred to in  
11 section 6716(b), or, if an agreement under subsection  
12 (a)(1), each person who filed a complaint with a govern-  
13 mental authority, about a failure to comply with section  
14 6711 (a) or (b). The Secretary shall submit the copy by  
15 the 15th day after an agreement is made. However, if the  
16 Secretary approves an agreement under subsection (a)(1)  
17 after the agreement is made, the Secretary may submit  
18 the copy by the 15th day after approval of the agreement.

19 **“§ 6715. Enforcement by the Attorney General of pro-**  
20 **hibitions on discrimination**

21 “The Attorney General may bring a civil action in  
22 an appropriate district court of the United States against  
23 a unit of general local government that the Attorney Gen-  
24 eral has reason to believe has engaged or is engaging in



1 a pattern or practice in violation of section 6711 (a) or  
2 (b). The court may grant—

3 “(1) a temporary restraining order;

4 “(2) an injunction; or

5 “(3) an appropriate order to ensure enjoyment  
6 of rights under section 6711 (a) or (b), including an  
7 order suspending, terminating, or requiring repay-  
8 ment of, payments under this chapter or placing ad-  
9 ditional payments under this chapter in escrow  
10 pending the outcome of the action.

11 **“§ 6716. Civil action by a person adversely affected**

12 “(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL  
13 OR STATE COURT.—If a unit of general local government,  
14 or an officer or employee of a unit of general local govern-  
15 ment acting in an official capacity, engages in a practice  
16 prohibited by this chapter, a person adversely affected by  
17 the practice may bring a civil action in an appropriate dis-  
18 trict court of the United States or a State court of general  
19 jurisdiction. Before bringing an action under this section,  
20 the person must exhaust administrative remedies under  
21 subsection (b).

22 “(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE  
23 EXHAUSTED.—A person adversely affected shall file an  
24 administrative complaint with the Secretary or the head  
25 of another agency of the United States Government or the

1 State agency with which the Secretary has an agreement  
2 under section 6711(d). Administrative remedies are  
3 deemed to be exhausted by the person after the 90th day  
4 after the complaint was filed if the Secretary, the head  
5 of the Government agency, or the State agency—

6 “(1) issues a decision that the government has  
7 not failed to comply with this chapter; or

8 “(2) does not issue a decision on the complaint.

9 “(c) AUTHORITY OF COURT.—In an action under this  
10 section, the court—

11 “(1) may grant—

12 “(A) a temporary restraining order;

13 “(B) an injunction; or

14 “(C) another order, including suspension,  
15 termination, or repayment of, payments under  
16 this chapter or placement of additional pay-  
17 ments under this chapter in escrow pending the  
18 outcome of the action; and

19 “(2) to enforce compliance with section 6711  
20 (a) or (b), may allow a prevailing party (except the  
21 United States Government) a reasonable attorney’s  
22 fee.

23 “(d) INTERVENTION BY ATTORNEY GENERAL.—In  
24 an action under this section to enforce compliance with  
25 section 6711 (a) or (b), the Attorney General may inter-

1 vene in the action if the Attorney General certifies that  
2 the action is of general public importance. The United  
3 States Government is entitled to the same relief as if the  
4 Government had brought the action and is liable for the  
5 same fees and costs as a private person.

6 **“§ 6717. Judicial review**

7       “(a) APPEALS IN FEDERAL COURT OF APPEALS.—  
8 A unit of general local government which receives notice  
9 from the Secretary about withholding payments under sec-  
10 tion 6703(c), suspending payments under section  
11 6713(a)(1)(B), or terminating payments under section  
12 6712(d)(2)(A), may apply for review of the action of the  
13 Secretary by filing a petition for review with the court of  
14 appeals of the United States for the circuit in which the  
15 government is located. The petition shall be filed by the  
16 60th day after the date the notice is received. The clerk  
17 of the court shall immediately send a copy of the petition  
18 to the Secretary and the Attorney General.

19       “(b) FILING OF RECORD OF ADMINISTRATIVE PRO-  
20 CEEDING.—The Secretary shall file with the court a  
21 record of the proceeding on which the Secretary based the  
22 action. The court may consider only objections to the ac-  
23 tion of the Secretary that were presented before the Sec-  
24 retary.

1       “(c) COURT ACTION.—The court may affirm, change,  
2 or set aside any part of the action of the Secretary. The  
3 findings of fact by the Secretary are conclusive if sup-  
4 ported by substantial evidence in the record. If a finding  
5 is not supported by substantial evidence in the record, the  
6 court may remand the case to the Secretary to take addi-  
7 tional evidence. Upon such a remand, the Secretary may  
8 make new or modified findings and shall certify additional  
9 proceedings to the court.

10       “(d) REVIEW ONLY BY SUPREME COURT.—A judg-  
11 ment of a court under this section may be reviewed only  
12 by the Supreme Court under section 1254 of title 28.

13       **“§ 6718. Audits, investigations, and reviews**

14       “(a) INDEPENDENT AUDIT.—(1) Except as provided  
15 in this section, a unit of general local government that  
16 receives a payment under this chapter shall have an inde-  
17 pendent audit made of the financial statements of the gov-  
18 ernment at least as often as is required by paragraph (2)  
19 to determine compliance with this chapter. The audit shall  
20 be carried out under generally accepted government audit-  
21 ing standards issued by the Comptroller General of the  
22 United States.

23       “(2) Paragraph (1) does not apply to a unit of gen-  
24 eral local government for a fiscal year in which the govern-  
25 ment receives less than \$25,000 under this chapter. A unit

1 of general local government which receives at least  
2 \$25,000 but not more than \$100,000 under this chapter  
3 for a fiscal year shall have an audit made in accordance  
4 with paragraph (1) at least once every 3 years. A govern-  
5 ment which receives more than \$100,000 under this chap-  
6 ter for a fiscal year shall have an audit made in accord-  
7 ance with paragraph (1) for such fiscal year, except that,  
8 if the government operates on a biennial fiscal period, such  
9 audit may be made biennially but shall cover the financial  
10 statement or statements for, and compliance with the re-  
11 quirements of the chapter during, both years within such  
12 period.

13 “(3) An audit of financial statements of a unit of gen-  
14 eral local government carried out under another law of the  
15 United States for a fiscal year is deemed to be in compli-  
16 ance with paragraph (1) for that year if the audit substan-  
17 tially complies with the requirements of paragraph (1).

18 “(b) WAIVER BY LOCAL GOVERNMENT.—A unit of  
19 general local government may waive application of sub-  
20 section (a)(1) if—

21 “(1) the financial statements of the government  
22 are audited by independent auditors under State or  
23 local law at least as often as would be required by  
24 subsection (a)(2);

1           “(2) the government certifies that the audit is  
2           carried out under generally accepted auditing stand-  
3           ards issued by the Comptroller General of the Unit-  
4           ed States;

5           “(3) the auditing provisions of the State or  
6           local law are applicable to the payment period to  
7           which the waiver applies; and

8           “(4) the government submits to the Secretary a  
9           brief description of the auditing standards used  
10          under the relevant State or local law and specifica-  
11          tion of the payment period to which the waiver ap-  
12          plies.

13          “(c) WAIVER BY SECRETARY.—Under regulations of  
14          the Secretary, the Secretary may waive any requirement  
15          under subsection (a)(1) or (b) for a unit of general local  
16          government for a fiscal year if the Secretary decides that  
17          the financial statements of the government for the year—

18               “(1) cannot be audited, and the government  
19               shows substantial progress in making the statements  
20               auditable; or

21               “(2) have been audited by a State agency that  
22               does not follow generally accepted auditing stand-  
23               ards issued by the Comptroller General of the Unit-  
24               ed States or that is not independent, and the State

1       agency shows progress in meeting those auditing  
2       standards or in becoming independent.

3       “(d) SERIES OF AUDITS.—A series of audits carried  
4       out over a period of not more than 3 years covering the  
5       total amount in the financial accounts of a unit of general  
6       local government is deemed to be a single audit under sub-  
7       sections (a)(1) and (b) of this section.

8       “(e) AUDIT OPINION.—An opinion of an audit car-  
9       ried out under this section shall be provided to the Sec-  
10      retary in the form and at times required by the Secretary.  
11      No later than 30 days following the completion of the  
12      audit, the unit of general local government shall make the  
13      audit report available for public inspection.

14      “(f) INVESTIGATIONS BY SECRETARY.—(1) The Sec-  
15      retary shall maintain regulations providing reasonable and  
16      specific time limits for the Secretary to—

17              “(A) carry out an investigation and make a  
18              finding after receiving a complaint referred to in sec-  
19              tion 6716(b), a determination by a State or local ad-  
20              ministrative agency, or other information about a  
21              possible violation of this chapter;

22              “(B) carry out audits and reviews (including in-  
23              vestigations of allegations) about possible violations  
24              of this chapter; and

1           “(C) advise a complainant of the status of an  
2           audit, investigation, or review of an allegation by the  
3           complainant of a violation of section 6711 (a) or (b)  
4           or other provision of this chapter.

5           “(2) The maximum time limit under paragraph  
6 (1)(A) is 90 days.

7           “(g) REVIEWS BY COMPTROLLER GENERAL.—The  
8 Comptroller General of the United States shall carry out  
9 reviews of the activities of the Secretary, State govern-  
10 ments, and units of general local government necessary  
11 for the Congress to evaluate compliance and operations  
12 under this chapter.

13 **“§ 6719. Reports**

14           “(a) REPORTS BY SECRETARY TO CONGRESS.—Be-  
15 fore June 2 of each year, the Secretary personally shall  
16 report to the Congress on—

17           “(1) the status and operation of the Local Gov-  
18 ernment Fiscal Assistance Fund during the prior fis-  
19 cal year; and

20           “(2) the administration of this chapter, includ-  
21 ing a complete and detailed analysis of—

22           “(A) actions taken to comply with sections  
23 6711 through 6715, including a description of  
24 the kind and extent of noncompliance and the  
25 status of pending complaints;



1           “(B) the extent to which units of general  
2           local government receiving payments under this  
3           chapter have complied with sections 6702 and  
4           6718(a), (b), and (d), including a description of  
5           the kind and extent of noncompliance and ac-  
6           tions taken to ensure the independence of au-  
7           dits conducted under section 6718(a), (b), and  
8           (d);

9           “(C) the way in which payments under this  
10          chapter have been distributed in the jurisdic-  
11          tions receiving payments; and

12          “(D) significant problems in carrying out  
13          this chapter and recommendations for legisla-  
14          tion to remedy the problems.

15          “(b) REPORTS BY UNITS OF GENERAL LOCAL GOV-  
16          ERNMENT TO SECRETARY.—(1) At the end of each fiscal  
17          year, each unit of general local government which received  
18          a payment under this chapter for the fiscal year shall sub-  
19          mit a report to the Secretary. The report shall be submit-  
20          ted in the form and at a time prescribed by the Secretary  
21          and shall be available to the public for inspection. The re-  
22          port shall state—

23                 “(A) the amounts and purposes for which the  
24                 payment has been appropriated, expended, or obli-  
25                 gated in the fiscal year;

1           “(B) the relationship of the payment to the rel-  
2           evant functional items in the budget of the govern-  
3           ment; and

4           “(C) the differences between the actual and  
5           proposed use of the payment.

6           “(2) The Secretary shall provide a copy of a report  
7           submitted under paragraph (1) by a unit of general local  
8           government to the chief executive officer of the State in  
9           which the government is located. The Secretary shall pro-  
10          vide the report in the manner and form prescribed by the  
11          Secretary.

12          “(c) REGULATIONS.—The Secretary shall prescribe  
13          regulations for applying this section to units of general  
14          local government that do not adopt budgets.

15       **“§ 6720. Definitions and application**

16          “(a) DEFINITIONS.—In this chapter—

17               “(1) ‘unit of general local government’ means—

18                       “(A) a county, township, city, or political  
19                       subdivision of a county, township, or city, that  
20                       is a unit of general local government as deter-  
21                       mined by the Secretary of Commerce for gen-  
22                       eral statistical purposes; and

23                       “(B) the District of Columbia and the rec-  
24                       ognized governing body of an Indian tribe or

1 Alaskan Native village that carries out substan-  
2 tial governmental duties and powers;

3 “(2) ‘payment period’ means each one-year pe-  
4 riod beginning on October 1 of 1992 and 1993;

5 “(3) ‘State and local taxes’ means taxes im-  
6 posed by a State government or unit of general local  
7 government or other political subdivision of a State  
8 government for public purposes (except employee  
9 and employer assessments and contributions to fi-  
10 nance retirement and social insurance systems and  
11 other special assessments for capital outlay) as de-  
12 termined by the Secretary of Commerce for general  
13 statistical purposes;

14 “(4) ‘State’ means any of the several States  
15 and the District of Columbia;

16 “(5) ‘income’ means the total money income re-  
17 ceived from all sources as determined by the Sec-  
18 retary of Commerce for general statistical purposes;

19 “(6) ‘per capita income’ means—

20 “(A) in the case of the United States, the  
21 income of the United States divided by the pop-  
22 ulation of the United States;

23 “(B) in the case of a State, the income of  
24 that State, divided by the population of that  
25 State; and

1           “(C) in the case of a unit of general local  
2           government, the income of that unit of general  
3           local government divided by the population of  
4           the unit of general local government;

5           “(7) ‘finding of discrimination’ means a deci-  
6           sion by the Secretary about a complaint described in  
7           section 6716(b), a decision by a State or local ad-  
8           ministrative agency, or other information (under  
9           regulations prescribed by the Secretary) that it is  
10          more likely than not that a unit of general local gov-  
11          ernment has not complied with section 6711 (a) or  
12          (b);

13          “(8) ‘holding of discrimination’ means a holding  
14          by a United States court, a State court, or an ad-  
15          ministrative law judge appointed under section 3105  
16          of title 5, that a unit of general local government ex-  
17          pending amounts received under this chapter has—

18                 “(A) excluded a person in the United  
19                 States from participating in, denied the person  
20                 the benefits of, or subjected the person to dis-  
21                 crimination under, a program or activity be-  
22                 cause of race, color, national origin, or sex; or

23                 “(B) violated a prohibition against dis-  
24                 crimination described in section 6711(b); and

25          “(9) ‘public safety’ includes—

1           “(A) crime and substance abuse prevention  
2           activities;

3           “(B) the establishment of neighborhood  
4           satellite police precincts for the purpose of en-  
5           hancing community-based policing; and

6           “(10) ‘Secretary’ means the Secretary of Hous-  
7           ing and Urban Development.

8           “(b) TREATMENT OF SUBSUMED AREAS.—If the en-  
9           tire geographic area of a unit of general local government  
10          is located in a larger entity, the unit of general local gov-  
11          ernment is deemed to be located in the larger entity. If  
12          only part of the geographic area of a unit is located in  
13          a larger entity, each part is deemed to be located in the  
14          larger entity and to be a separate unit of general local  
15          government in determining allocations under this chapter.  
16          Except as provided in regulations prescribed by the Sec-  
17          retary, the Secretary shall make all data computations  
18          based on the ratio of the estimated population of the part  
19          to the population of the entire unit of general local govern-  
20          ment.

21          “(c) BOUNDARY AND OTHER CHANGES.—If a bound-  
22          ary line change, a State statutory or constitutional change,  
23          annexation, a governmental reorganization, or other cir-  
24          cumstance results in the application of sections 6704  
25          through 6708 in a way that does not carry out the pur-

1 poses of sections 6701 through 6708, the Secretary shall  
 2 apply sections 6701 through 6708 under regulations of the  
 3 Secretary in a way that is consistent with those pur-  
 4 poses.”.

5 (b) DEFICIT NEUTRALITY.—Any appropriation to  
 6 carry out the amendment made by this Act to title 31,  
 7 United States Code, for fiscal year 1993 or 1994 shall  
 8 be offset by cuts elsewhere in appropriations for that fiscal  
 9 year.

10 **SEC. 4. CLERICAL AMENDMENT.**

11 The table of chapters at the beginning of subtitle V  
 12 of title 31, United States Code, is amended by adding at  
 13 after the item relating to chapter 65 the following:

**“67. Federal Payments ..... 6701”.**

○

HR 581 IH——2

HR 581 IH——3

HR 581 IH——4